

Agreement WM-GM-087
Final Report for Fiscal Year 2006
July 3, 2006

Report Period

This report covers the activities of the Clark Fork Task Force for the period of September 21, 2005 through June 30, 2006.

Report Purpose

Pursuant to Section 4 Scope of Work of Agreement WM-GM-087, this report "...detail(s) meetings held, decisions made, activities related to plan implementation and recommendations for future actions.

Clark Fork Basin Watershed Management Plan

Key findings of the Clark Fork Basin Watershed Management Plan adopted by the Task Force in September 2004 included:

- Hydropower rights pose a potential constraint on water rights with priority dates junior to them, and on water available for future use in the basin.
- The risk that these constraints will actually be imposed is unknown.
- To ameliorate these potential constraints, the state should open discussions with the United States Bureau of Reclamation (BOR) to determine the availability and cost of temporary and long-term contracting options and to determine a quantity of firm storage available from Hungry Horse Reservoir for water uses in Montana other than hydropower.
- Ground water is growing in importance as a source of water supply in the basin.
- Additional research is needed to evaluate the availability of the basin's ground water, its recharge rate, and ground water-surface water interrelationships.

Activities Related to Plan Implementation

During FY 2006, the Task Force attempted to focus its activities on two areas related to the key findings listed above, in addition to keeping itself informed about general developments related to water right permitting and basin water management. It has been more successful regarding ground water than the initiation of discussions with the BOR regarding Hungry Horse water. Activities related to these two areas will now be discussed.

Ground Water - In an attempt to increase information about the basin's ground water resources, the Task has designed and arranged cosponsors to convene two conferences on ground water. One is a technical conference which will be convened on September 27, 2006 in partnership with the Center for Riverine Science and Stream Re-Naturalization of the Geology Department of the University of Montana. This conference will focus on addressing the following three questions:

- What do we know about the Basin's ground water and its interaction with surface water?
- What do we need to know?
- How do we acquire that information?

An agenda for the technical conference is attached. The agenda includes presentations by several speakers. The status of the speakers, whether they have been invited and confirmed attending is attached.

The second conference is a policy conference scheduled for November 9, 2006. It will target local, state, and tribal government officials and representatives of key interest groups, including

those represented by Task Force members. It will consist of three parts. The first will look at basin growth with presentations about present and projected future population levels and economic trends and how growth has translated into water use in the western US. The second will allow government officials, planners, water interests, and major water user groups to describe present and future water supply issues/problems. The third will consider policy and administrative tools for allocating ground water while protecting surface water conditions. An agenda for this conference with speaker status noted is attached.

In addition to designing these conferences and obtaining co-sponsors, the Task Force had to identify and secure a funding source for them, since funding was not provided for this purpose in its legislative appropriation. DNRC's Mike McLane with assistance from the Task Force facilitator, Gerald Mueller, first secured funding through DNRC and then developed and finalized a series of contracts with the University of Montana, the Montana Bureau of Mines and Geology, and Granite Conservation District that will support planning, holding and reporting on both conferences.

Hungry Horse Water - In the 2005 session of the Montana Legislature, the Steering Committee sought and won passage of a resolution, House Joint Resolution 3, urging the DNRC to enter into negotiations with the BOR to determine the availability and cost of water stored behind Hungry Horse Dam for which the State of Montana might contract to support future water development and existing water use in the Clark Fork River basin. In FY 2006, the Task Force has attempted to:

- Identify what information is needed to support the negotiations and a method for obtaining the information;
- Understand the process by which the negotiations might be conducted;
- Start the negotiation process; and
- Understand the river model that the BOR uses to schedule releases of water from Hungry Horse Dam.

At its September 19, 2005 meeting, DNRC Director Mary Sexton recommended that the Task Force write a letter to Governor Schweitzer asking him to request from the BOR a contract for a block of Hungry Horse water that the State of Montana can market to basin water users. On Sept. 28, 2006, the Task Force wrote to Mary Sexton requesting that DNRC determine how much water the State needs for a contract as a prerequisite to Governor's request of the BOR. On Oct. 8, 2005, Confederated Salish and Kootenai Tribal (CSKT) Chairman Matt wrote to Governor Schweitzer stating that, "Should DNRC pursue negotiations for long-term contracts for purchase of water from BOR's Hungry Horse Project prior to resolution by adjudication or negotiation of the Tribes' on- and off-Reservation reserved water rights, the Tribes will formally object." On Nov. 11, 2005, Director Sexton wrote to the Task Force stating that the state has proposed that a request to the BOR to pursue negotiations with the BOR over a contract for Hungry Horse water be posed jointly by the State and the Tribe. On December 1, 2005, Task Force members met with CSKT legal staff to discuss Hungry Horse negotiations. At the January 25, 2006 Task Force meeting, Rich Moy agreed that the DNRC will develop scenarios of future basin water use that might be used in an analysis of a contract for Hungry Horse water. In February 2006, Gerald Mueller met with Governor Schweitzer's Chief Policy Advisor Hal Harper asking that the state inquire with the BOR about the process necessary for determining how much Hungry Horse water state water users need and how much of it may be available for a contract. Mr. Harper said that he would discuss such an approach with CSKT Chair James

Steele Jr. On June 9, 2006, DNRC Director Sexton and Chief Legal Counsel Tim Hall discussed Hungry Horse negotiations with three CSKT Council members and Tribal legal staff. DNRC was invited to address full Tribal Council at future meeting. This meeting has not yet occurred.

In summary, in spite of the Task Force's requests to do so, the State of Montana has not yet initiated discussions with the BOR about the availability and cost of water stored behind Hungry Horse Dam for which the State of Montana might contract to serve Clark Fork basin water users.

Task Force Meetings

In FY 2006, the Task Force met nine times, on August 8, September 19, October 24, and November 14, 2005, and on January 25, March 6, April 4, May 1, and June 5, 2006. Summaries of these meetings have been previously provided with quarterly reports dated January 3, 2006, April 5, 2006, and July 3, 2006.

Recommendations for Future Actions

The Task Force should conduct the September 27 and November 9, 2006 ground water conferences. It should continue to press the state to enter into negotiations with the BOR regarding a contract for water in Hungry Horse Reservoir and participate in those discussions when they begin. Since these negotiations will likely require a multi-year process including an environmental impact statement, the Task Force should request the 2007 Legislature for a continued mandate and funding.

**Managing Clark Fork River Basin Ground Water
Preliminary Technical Conference Agenda
September 27, 2006**

- I. 8:00 AM, Registration**
- II. 8:45 AM, Welcome**
Gerald Mueller will welcome participants, introduce the Task Force, and set out the conference goals and agenda.
- III. 9:00 AM, What Do We Know About Clark Fork Basin Ground Water?**
Tom Patton, Senior Research Hydrogeologist, Program Manager - Groundwater Assessment, Montana Bureau of Mines and Geology will overview existing ground water information for the Clark Fork River basin by sub-basin.
- IV. 10:15 AM, Break**
- V. 10:45 AM, Ground Water Modeling Tools**
A panel of speakers will present modeling tools in use to define and/or predict the nature and extent of surface and ground water connections on a sub-basin scale. Possible speakers include Dr. Marios A. Sophocleous, Senior Scientist in geohydrology with the Kansas Geological Survey and Rod Caldwell, USGS Helena Office who oversees USGS ground water modeling in Montana.
- VI. Noon, Lunch**
Lunch will be provided to conference participants (UM sandwich buffet). Luncheon speaker (Mary Sexton, Tim Hall?) will address TU vs DNRC and its significance to ground water development.
- VII. 1:15 PM, Assessment Methodologies**
A panel of speakers will present and discuss methodologies used to assess surface and/or ground water depletions from resulting from ground water appropriations. Possible speakers include: Dr. Gary Johnson, Assistant Professor of Geology and Geologic Engineering; and John Meteish, Montana Bureau of Mines and Geology.
- VIII. 2:30 PM, Break.**
- IX. 3:00 PM, Ground Water Management Needs**
A panel will discuss what information, tools, and assessment methodologies are needed to management ground water effectively in the Clark Fork River basin.
Possible speakers include: Marc Spratt, RLK Hydro and a Task Force member; Steve Kilbreath, Subdivision Review Section, the Montana Department of Environmental Quality; and Tom Patton, Montana Bureau of Mines and Geology.
- X. 4:15 PM, Wrap Up**
A Task Force member (Jim Dinsmore?) will summarize conference and discuss next steps.
- XI. 4:30 PM, Adjourn.**

**Managing Clark Fork River Basin Ground Water
Preliminary Policy Conference Agenda
November 9, 2006**

- I. 8:00 AM, Registration**
- II. 8:30 AM, Welcome**
Gerald Mueller will welcome participants, introduce the Task Force, and set out the conference goals and agenda.
- III. 8:45 AM, Clark Fork Basin Economic and Demographic Trends**
Dr. Larry Swanson, Center for the Rocky Mountain West, will overview present and projected future Clark Fork basin population levels and economic trends (confirmed).
- IV. 9:45 AM, Break**
- V. 10:00 AM, Effect of Population and Economic Growth on Water Use**
Robert Glennon Morris K. Udall Professor of Law and Public Policy (confirmed)
- VI. 11:00 AM, Water Supply Assessment**
The first of three panels will address present and future water supply issues/problems.
Panel 1- Tribal and local government elected officials (e.g., Chairman Steele, Mayors of Polson and Thomson Falls, and Commissioners from Ravalli and Deer Lodge Counties) will answer the following questions:
- What water supply problems are you currently experiencing?
 - What water supply problems do you foresee over the next 50 years?
 - How are you addressing these problems?
- VI. Noon, Lunch**
Luncheon Speaker - Governor Schweitzer (invited)
- VII. 1:00 PM, Water Supply Assessment Continued**
Panel 2 - Tribal and local government planners (e.g., Clayton Matt; Jon Sesso, Butte Silver Bow Planner; Whitefish planner; Dick Hoehne, Philipsburg) will address the following questions:
- What planning activities are underway to meet future water demands?
 - What are your current and projected water supply needs?
 - What planning and management issues do you face?
 - What tools do you need to address them?
- VIII. 2:00 PM, Water Supply Assessment Continued**
Panel 3 - Water users/interests (irrigation districts, private water supply company, and realtors) will address the following questions
- What water supply problems are you currently experiencing?
 - What water supply challenge do you foresee over the next 50 years?
 - How are you addressing these problems/challenges?
- IX. 3:00 PM, Break.**
- X. 3:15 PM, Policy and Administrative Tools**
Dr. David Shively and Mike McLane will address policy and administrative tools for allocating ground water while protecting surface water conditions (i.e. augmentation, ground water storage, water banking, water trades etc.)
- XI. 4:15 PM, Conference Wrap Up**
A Task Force member (e.g., Jim Dinsmore) will summarize conference and discuss next steps.
- XII. 4:45 PM, Adjourn.**